

TABLE 1: RESPONSES TO COMMENTS FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008

The table below contains the responses to comment received from the U.S. Environmental Protection Agency (EPA) on the “Draft Final Amended Parcel B Record of Decision, Hunters Point Shipyard, San Francisco, California,” dated November 7, 2008. The comments addressed below were received from EPA on December 8, 2008. Throughout this table, *italicized* text represents additions to the document and ~~strikeout~~ text indicates locations of deletions. Also throughout this table, references to page, section, table, and figure numbers pertain to the new document unless indicated otherwise.

No.	Page	Comment	Response
Responses to Comments from EPA (Mark Ripperda)			
COMMENTS ON RESPONSES			
1.	Cmt 4	The text was modified as indicated in the comment, but Table 2-1 also needs to be updated with information about the Wetlands Delineation and Functions and Values Assessment.	Table 2-1 was revised as suggested.
2.	Cmt 19	The response partially addresses the comment. However, the revision does not address the storm/sewer line rad removals. Given the issues of the stubborn trenches, it is important that the rad removals be included in the bulleted list as an action that is expected to be completed, but that will continue as a remedial action if the goals are not achieved in the removal action.	<p>The discussion of the time-critical removal actions (TCRA) to address storm drain and sanitary sewer lines is part of Alternative R-2, and not Alternative S-3, where the text was revised to more fully describe the TCRA for methane and mercury. Consequently, Section 9.3.2 (and not 9.1.3) was revised to address the storm drain and sanitary sewer removals. The text of the first paragraph on page 9-12 was revised as follows.</p> <p>“The Navy decided to address the radiologically impacted storm drains, sanitary sewers, and former building sites using a TCRA. <i>Activities for the TCRA at Parcel B began in 2006. The Navy excavated more than 59,400 cubic yards of material and disposed of about 3,800 cubic yards off site as low-level radioactive waste. The Navy demolished Building 157 as part of the TCRA and removed more than 22,900 linear feet of storm drain and sanitary sewer lines. This TCRA has allowed the Navy to get an early start on cleanup at radiologically impacted areas identified since the 1997 ROD [record of decision].</i> The TCRA is intended to achieve cleanup goals that are identical to the RAOs [remedial action objectives] identified in this ROD. In the event that the TCRA does not achieve its cleanup goals, cleanup will continue in accordance with the remedial action selected in this ROD until the RAOs are achieved.”</p>

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3.	---	In addition, Sections 9.2.3.2 and 12.2.2.2, Treatment for Metals, state that mercury contamination in groundwater will be mitigated by the soil removal, and that no further groundwater action will be necessary. The text would be more consistent if the statement predicting the success of the mercury removal is removed and mercury is added to the last sentence of Sections 9.2.3.2 and 12.2.2.2.	The text was revised as suggested.
SPECIFIC COMMENTS ON REVISED TEXT, TABLES, OR FIGURES			
1.	xv	Declaration, Alternative R-2, Page xv; Section 9.3.2; and Section 12.1.3: Based on recent conversations, it seems like the suction channel to Building 140 will not be transferred to Parcel F. Please delete the statements concerning assigning the suction channel to parcel F from these three sections.	The suction channel will not be transferred to Parcel F and instead will be cleared for unrestricted release as part of the Navy's radiological TCRA. The text was revised to reflect this change in approach.
2.	2-6	Section 2.2.3.1, History of Soil Actions, Remedial Actions, Page 2-6: In the last paragraph under "Remedial Actions," it is not clearly stated that the EPA radiological expert evaluation was conducted prior to the 2001 excavation, which may confuse readers from the general public. Please revise the text to clearly state that the EPA evaluation was conducted prior to the 2001 excavation when the Navy encountered black sandblast grit.	The text in this paragraph has been changed to state more clearly that the EPA evaluation was conducted prior to the 2001 excavation. The last sentence in this paragraph has been changed as follows. "In a previous study, EPA radiological experts performed an independent evaluation and confirmed that the radiation levels were only slightly above background (National Air and Radiation Environmental Laboratory 1994)."

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3.	7-12	<p>Section 7.3, Groundwater Trigger Levels: This section is too detailed and also doesn't reflect the regulatory agencies desire to possibly have specific guard wells and to not overly restrict the list of analytes for any given well. I suggest the following changes:</p> <p>Leave the first two paragraphs, delete the third paragraph and the numbered items.</p> <p>Replace the current fourth paragraph with:</p> <p>The Navy developed trigger levels to evaluate attenuation of contaminants as groundwater moves from inland areas towards the Bay. The wells identified by the trigger level evaluation will be included in the groundwater monitoring program to be developed during the RD [remedial design]. The RD will also evaluate guard wells adjacent to the Bay for inclusion in the groundwater monitoring program. All five of the analytes identified in the trigger level analysis (chromium VI, copper, lead, mercury, and nickel) may be included for any well in the monitoring program that tracks possible contaminant migration to the Bay. The analysis in the RD will evaluate both data collected for the trigger level analysis in 2004 and newer data. The evaluation of newer data may show that wells identified in the trigger level analysis no longer pose a threat and may not be necessary. All of these evaluations will be described in the RD for review and approval by the regulatory agencies.</p> <p>The fifth paragraph and the bullets could be replaced with the following simplified language:</p> <p>The RD will also evaluate:</p> <ul style="list-style-type: none"> • Changes to the monitoring frequency for each well; • Adding downgradient wells; • Deleting wells; • Adjusting the attenuation factors based on site specific detailed information; • Implementing a selected remediation alternative for groundwater treatment. 	<p>The text was revised as suggested (with minor changes to the text suggested in the comment shown in italics or strikeout) as follows.</p> <p>“The Navy developed trigger levels to evaluate attenuation of contaminants as groundwater moves from inland areas toward the bay. The wells identified by the trigger level evaluation will be included in the groundwater monitoring program to be developed during the RD. The RD will also evaluate guard wells adjacent to the bay for inclusion in the groundwater monitoring program. All five of the analytes identified in the trigger level analysis (chromium VI, copper, lead, mercury, and nickel) may be included for any well in the monitoring program that tracks possible contaminant migration to the bay. The analysis in the RD will evaluate both data collected for the trigger level analysis in 2004 and newer data (<i>including data from newly installed wells</i>). The evaluation of newer data may show that <i>groundwater at wells identified in the trigger level analysis no longer poses a threat and monitoring at those wells</i> may not be necessary. All of these evaluations will be described in the RD for review and approval by the regulatory agencies.</p> <p>The RD will also evaluate:</p> <ul style="list-style-type: none"> • Changes to the monitoring frequency for each well; • Adding downgradient wells; • <i>Adding or deleting wells;</i> • <i>Monitoring the groundwater/surface water interface;</i> • Adjusting the attenuation factors based on site-specific detailed information; or • Implementing a selected remediation alternative for groundwater treatment.”

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OFFICE OF REGIONAL COUNSEL COMMENTS ON LAND USE CONTROLS (LUC)			
1.	13-16 - 13-18	<p>Section 13, Page 13-16 through 13-18– Institutional Controls: The EPA, DTSC and Navy attorneys have been in contact to discuss issues with the Institutional Controls language. What I’ve included here is an attempt to capture the issue for the official comments, but the response and the ultimate changes to the text should be based on the correspondence between the attorneys, not this comment.</p> <p>There is a lack of clarity especially as the text relates to the relationship between the federal deed and the Covenant to Restrict the Use of Property.</p> <p>As a starting point, EPA does not see the need to discuss each of the "substantive provisions" referred to below because for the most part they are not operative standards and in any case it is EPA's position that the regulatory provisions are the ARARs, not the statutory authorities referred to below. We propose replacing the institutional controls section which appears at pages13-16 through 13-18 with the following.</p> <p>Institutional Controls</p> <p>The Navy has identified specific substantive provisions of California Civil Code, California Health and Safety Code, and Cal. Code Regs. tit. 22, as state ARARs for implementing institutional controls by means of a Covenant to Restrict Use of Property with DTSC.</p> <ul style="list-style-type: none"> • California Civil Code Land Use Controls § 1471 • California Health and Safety Code Land Use Controls §§ 25202.5, 25222.1, 25232(b)(1)(A)-(E), 25233(c), 25234, and 25355.5(a)(1)(C) • Cal. Code Regs. tit. 22, § 67391.1 	<p>Comment noted. EPA, Department of Toxic Substances Control (DTSC) and Navy attorneys have agreed to revisions to the discussion of institutional controls in the applicable or relevant and appropriate requirement (ARAR) discussion in the ROD. See below.</p> <p>This concern has been resolved by the language set forth below.</p> <p>The Navy has identified specific substantive provisions of California Civil Code, California Health and Safety Code, and California Code of Regulations (Cal. Code Regs.) Title (tit.) 22, as relevant and appropriate state ARARs for implementing institutional controls and entering into a Covenant to Restrict Use of Property with DTSC.</p> <ul style="list-style-type: none"> • California Civil Code Land Use Controls § 1471 • California Health and Safety Code Land Use Controls §§ 25202.5, 25222.1, 25232(b)(1)(A)-(E), 25233(c), 25234, and 25355.5(a)(1)(C) • Cal. Code Regs. tit. 22, § 67391.1

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1. (con't)	---	<p>The substantive provisions of California Civil Code § 1471 are the following general narrative standard: "... to do or refrain from doing some act on his or her own land ... where...: (c) Each such act relates to the use of land and each such act is reasonably necessary to protect present or future human health or safety of the environment as a result of the presence on the land of hazardous materials, as defined in § 25260 of the Health and Safety Code." This language provides authority for establishing a durable institutional control will be implemented through incorporation of specific language in the restrictive environmental covenants in the federal deed at the time of transfer and in the Covenant to Restrict Use of Property to be executed prior to transfer and will run with the land.</p> <p>The substantive provision of California Health and Safety Code § 25202.5 is the general narrative standard that authorizes DTSC to enter into an agreement to restrict "present and future uses of all or part of the land on which the ...facility ... is located" This substantive provision would be implemented by incorporation of restrictions on the use of the property in the Covenant to Restrict Use of Property at the time of transfer for purposes of protecting present and future public health and safety. California Health and Safety Code §§ 25222.1 and 25355.5(a)(1)(C) provide the authority for the state to enter into voluntary agreements to establish land use covenants with the owner of property.</p>	<p>The relevant and appropriate substantive provisions of California Civil Code § 1471 are the following general narrative standard: "... to do or refrain from doing some act on his or her own land ... where...: (c) Each such act relates to the use of land and each such act is reasonably necessary to protect present or future human health or safety of the environment as a result of the presence on the land of hazardous materials, as defined in § 25260 of the Health and Safety Code." This language provides authority for establishing a durable institutional control that will be implemented through incorporation of restrictive environmental covenants that run with the land into both the federal deed at the time of transfer of the property and in the Covenant to Restrict Use of Property with DTSC to be executed at the time of transfer.</p> <p>The relevant and appropriate substantive provision of California Health and Safety Code § 25202.5 is the general narrative standard that authorizes DTSC to enter into an agreement to restrict "present and future uses of all or part of the land on which the ... facility ... is located" This substantive provision would be implemented by incorporation of restrictions on the use of the property in the Covenant to Restrict Use of Property at the time of transfer for purposes of protecting present and future public health and safety.</p> <p>California Health and Safety Code §§ 25222.1 and 25355.5(a)(1)(C) provide the authority for the state to enter into voluntary agreements to establish land use covenants with the owner of property. The substantive requirements of the following California Health and Safety Code §25222.1 provisions are relevant and appropriate: (1) the general narrative standard: "restricting specified uses of the property, ..." and (2) "... the agreement is irrevocable, and shall be recorded by the owner, ... as a hazardous waste easement, covenant, restriction or servitude, or any combination thereof, as appropriate, upon the present and future uses of the land." The substantive requirements of the following California Health and Safety Code § 25355.5(a)(1)(C) provisions are relevant and appropriate: "... execution and recording of a written instrument that imposes an easement, covenant, restriction, or servitude, or combination thereof, as appropriate, upon the present and future uses of the land." The Navy would comply with these relevant and appropriate substantive requirements of California Health and Safety Code §§ 25222.1 and 25355.5(a)(1)(C) by incorporating selected land use and activity restrictions into</p>

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1. (con't)	---		<p>the Navy's deed of conveyance in the form of restrictive covenants which will meet the requirements of California Civil Code § 1471 and entering into a Covenant to Restrict Use of Property with DTSC at the time of transfer of the property. Land-use restriction requirements for hazardous waste property are set forth in California Health and Safety Code § 25232(b)(1)(A)–(E). These include prohibitions on residences, hospitals for humans, schools for persons under 21 years of age, day care centers, or any permanently occupied human habitation. Although IR [Installation Restoration] Sites 7 and 18 have not been designated as hazardous waste property, these prohibitions are relevant and appropriate at Sites 7 and 18 where they are necessary to provide adequate protection of human health and the environment. California Health and Safety Code § 25233(c) sets forth relevant and appropriate substantive criteria for granting variances from prohibited uses set forth in California Health and Safety Code § 25232(b) based upon specified environmental and health criteria.</p> <p>California Health and Safety Code § 25234 sets forth the following relevant and appropriate substantive criteria for the removal of a land use restriction on the grounds that "... the waste no longer creates a significant existing or potential hazard to present or future public health or safety."</p> <p>DTSC promulgated a regulation on April 19, 2003, regarding "Requirements for Land-Use Covenants" at Cal. Code Regs., tit. 22, § 67391.1. The substantive provisions of this regulation have been determined to be relevant and appropriate state ARARs by the Navy, and the Navy will comply by entering into a Covenant to Restrict Use of Property with DTSC.</p> <p>EPA Region 9 agrees that the substantive portions of the state statutes and regulations referenced in this section are ARARs. EPA Region 9 specifically considers §§ (a), (b), (d), and (e) of Cal. Code Regs., tit. 22 § 67391.1, to be ARARs for this amended ROD. DTSC's position is that all of the state statutes and regulations referenced in this section are ARARs.</p>

TABLE 2: RESPONSES TO COMMENTS FROM THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008

The table below contains the responses to comments received from the Department of Toxic Substances Control (DTSC) on the “Draft Final Amended Parcel B Record of Decision, Hunters Point Shipyard, San Francisco, California,” dated November 7, 2008. The comments addressed below were received from DTSC on December 9, 2008. Additional comments were received from DTSC on December 29, 2008. Throughout this table, *italicized* text represents additions to the document and ~~strikeout~~ text indicates locations of deletions. Also throughout this table, references to page, section, table, and figure numbers pertain to the new document unless indicated otherwise.

No.	Page	Comment	Response
Responses to Comments from DTSC (Tom Lanphar)			
GENERAL COMMENTS			
1.	---	<p>Groundwater. DTSC accepts many of the changes to the groundwater trigger level discussion in Section 7.3. However, the ROD Amendment does not reflect the regulatory agencies’ desire to have specific guard wells and to not overly restrict the list of analytes for any given well. DTSC concurs with the US EPA’s suggested changes to this section. US EPA’s changes are repeated here for clarity:</p> <p>Leave the first two paragraphs; delete the third paragraph and the numbered items.</p> <p>Replace the current fourth paragraph with:</p> <p><i>“The Navy developed trigger levels to evaluate attenuation of contaminants as groundwater moves from inland areas towards the Bay. The wells identified by the trigger level evaluation will be included in the groundwater monitoring program to be developed during the RD. The RD will also evaluate guard wells adjacent to the Bay for inclusion in the groundwater monitoring program. All five of the analytes identified in the trigger level analysis (chromium VI, copper, lead, mercury, and nickel) may be included for any well in the monitoring program that tracks possible contaminant migration to the Bay. The analysis in the RD will evaluate both data collected for the trigger level analysis in 2004 and newer data. The evaluation of newer data may show that wells identified in the trigger level analysis no longer pose a threat and may not be necessary. All of these evaluations will be described in the RD for review and approval by the regulatory agencies.”</i></p>	Please refer to the response to EPA specific comment 3.

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No.	Page	Comment	Response
1. (cont'd)	---	<p>The fifth paragraph and the bullets could be replaced with the following simplified language:</p> <p><i>“The RD will also evaluate:</i></p> <ul style="list-style-type: none"> • <i>Changes to the monitoring frequency for each well;</i> • <i>Adding downgradient wells;</i> • <i>Deleting wells;</i> • <i>Adjusting the attenuation factors based on site specific detailed information;</i> <p><i>Implementing a selected remedial alternative for groundwater treatment.</i></p>	
2.	12-12	<p>Radiological Restricted Activities. DTSC and CDPH included a comment on the draft Parcel B ROD Amendment requesting the prohibition of water and sewer lines above and below the IR Sites 7 and 18 cap demarcation layer. The intention of the request was to ensure that design and installation of water and sewer lines would consider and not threaten the integrity and effectiveness of the cap remedy. This intent can also be achieved by restricting, instead of prohibiting this activity. Specifically removed from the Institutional Control language is the reference to the two feet of clean fill above the demarcation layer. DTSC does not want to restrict the applicability of Operation and Maintenance Plans, Risk Management Plans (RMPs), or specific project work plans to this limited zone. DTSC requests the following edit to the Institutional Control section.</p> <p>Section 12.2.1.5 Institutional Controls, Additional Land Use Restrictions Related to Radionuclides at IR 7 and 18 (page 12-12):</p> <p>“For land disturbing activities, as defined above and including the installation of water lines, storm drains or sanitary sewers at IR Sites 7 and 18 that are above the demarcation layer, the Operation and Maintenance Plan, IR Sites 7 and 18 Risk Management Plan, or a project specific work plan, if applicable, will list the procedures for ensuring that the cap is not disturbed or breached. A demarcation layer shall be placed on top of the cap in order to provide a visual identification of the top of the cap. The specific design of the cap and clean soil cover shall be agreed to in the RD.”</p>	<p>The text was revised as suggested. The text was revised as follows.</p> <p>“For land-disturbing activities, as defined above <i>and including installation of water lines, storm drains, or sanitary sewers</i>, at IR Sites 7 and 18 within the ARIC for radionuclides that are solely in the minimum 2 feet of clean fill above the demarcation layer, the LUC RD report, the Operation and Maintenance Plan, or IR Sites 7 and 18 RMP, <i>or a project-specific work plan</i>, if applicable, will list the procedures for ensuring that the cap is to be followed to be sure that the demarcation layer and the clean and radiologically screened and cleared soil beneath it are not disturbed or breached. The specific design of the cap 1-foot clean soil layer over the radiologically screened soil, the demarcation layer, and 2-foot clean soil cover shall be agreed to in the RD.”</p>

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2. (con't)	12-13	The last paragraph of Section 12.2.1.5 describes activities necessary to protect public health if IR Sites 7 and 18 are transferred prior to the construction of the cover/cap. DTSC and CDPH request that the Navy completes installation of the cover/cap prior to property transfer. Therefore, please delete the last paragraph.	The last paragraph of Section 12.2.1.5 was deleted as suggested.
3.	---	Building 140. Please ensure that the final ROD Amendment includes the most current strategy for addressing the intake channel for Building 140. DTSC recommends Building 140 remain in Parcel B; however, transfer of the area would only occur after the intake channel is cleared for radiation contamination.	The suction channel will not be transferred to Parcel F and instead will be cleared for unrestricted release as part of the Navy's radiological TCRA. The text was revised to reflect this change in approach.
4.	---	Methane gas monitoring at IR-07 after source removal. DTSC and the California Integrated Waste Management Board (CIWMB) request that the remedial design document for Parcel B include a methane monitoring program for the area of the methane source removal action. The Navy's Response to Comments indicated that the Navy intends to monitor methane in this area for one year. This period is too short to provide the information necessary for DTSC and CIWMB, and we believe the Navy, to determine if Remedial Action Objectives of the Parcel B ROD Amendment are met. A monitoring period of three to five years is typically needed to make that determination.	The operation and maintenance plan for IR Sites 7 and 18 will include an approach for monitoring for methane gas. The amended ROD was not changed as a result of this comment.
5.	12-9	Implementation of "Covenant(s) to Restrict Use of Property" page 12-9. The Covenant(s), not the RMP, stipulates restrictive provisions to protection human health and the environment. The restrictions in the Covenant(s) are implemented by the Covenant(s) not the RMP. The RMP is in essence a pre-approved workplan, which allows property owners and/or occupants to conduct certain restricted activities in accordance with the specific RMP practices/protocols. Please revise the ROD Amendment to reflect this concept.	The phrase "implemented through" in the second to last paragraph on page 12-9 has been changed to "addressed in." The Navy does not believe that the risk management plan (RMP) is exclusively "in essence a pre-approved work plan" and notes that the federal facility agreement (FFA) signatories appear to be in accord that the RMP will serve several other purposes.

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No.	Page	Comment	Response
Responses to Comments from DTSC (Robin Hook, California Department of Public Health [CDPH])			
GENERAL COMMENTS			
1.	---	Response to Comment 9. In its response to the CDPH comment, the Navy failed to fully identify the ARARs for IR Sites 7 and 18. The Navy lists certain ARARs for all radiologically impacted sites and then states that certain requirements are not ARARs for IR 7 and 18. The response is confusing because, for example, it does not list 40 CFR [Code of Federal Regulations] section 192.12(a) as being an ARAR for any portion of Parcel B, but specifically states that it is not an ARAR for IR Sites 7 and 18. If it is the Navy's decision that the following are ARARs for IR Sites 7 and 18, please so state: 40 CFR section 192.12(b)(1) and 10 CFR section 20.1301. If it is the Navy's decision that other requirements are ARARs for IR Sites 7 and 18, please list those requirements.	<p>The text of Section 13.2.1.1 was clarified as follows.</p> <p>"The substantive provisions of the following requirements are relevant and appropriate for all radiologically impacted sites <i>except for IR Sites 7 and 18</i>:</p> <ul style="list-style-type: none"> • 40 CFR § 192.12(b)(1) and § 192.41(b) • 40 CFR § 192.12(b)(2) • 40 CFR §§ 192.12(a) and 192.32(b)(2) • 10 CFR § 20.1301 • 10 CFR § 20.1402 <p>The substantive provisions of the following requirements are not ARARs for IR Sites 7 and 18, which will be transferred with engineering and institutional controls for radiological contaminants:</p> <ul style="list-style-type: none"> • 40 CFR § 192.12(b)(1) and § 192.41(b) • 40 CFR § 192.12(b)(2) • 10 CFR § 20.1301 • 10 CFR § 61.41 <p>The substantive provisions of 10 CFR § 20.1402 are ARARs for buildings, fill areas, former building sites, storm drains, and sanitary sewers in Parcel B (specifically excluding IR Sites 7 and 18) that are undergoing cleanup under the radiological TCRA and any additional remedial action required for those TCRA locations."</p>

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No.	Page	Comment	Response
1. (con't)	---	<p>In addition, the Navy failed to respond to the CDPH comment regarding the California regulation, California Code of Regulations, title 17, section 30256, which stated: "Please explain which federal standards have been selected that are more stringent than the proposed state regulations." The Navy merely responded that the state regulation is not more stringent than the ARARs it had identified for all radiologically impacted sites. The Navy failed to explain which of those ARARs in particular are more stringent than the state regulation. Please provide that explanation.</p> <p>Additional comment received December 29, 2008 from Tom Lanphar: DTSC and CDPH have reviewed the final ROD. The attached comment (see next comment) from the CDPH asserts that 17 California Code of Regulations (CCR) section 30256 meets the criteria for a potential state chemical-specific ARAR. This assertion, however, is not a challenge from DTSC or CDPH to the Final ROD Amendment for Parcel B.</p>	<p>A state requirement must be more stringent than federal requirements in order to qualify as a state ARAR under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). See 40 CFR Sections 300.400(g)(4) and 300.515(h)(2). It is the responsibility of the state to identify any potential state ARARs that it believes are more stringent than federal ARARs and federal risk-based cleanup levels and to demonstrate why they are more stringent. Neither DTSC nor CDPH have prepared and submitted such an analysis and demonstration. Furthermore, the requirements in this regulation appear to be procedural requirements primarily relating to license termination rather than substantive requirements. A requirement must be substantive rather than procedural in order to qualify as an ARAR (see definitions of "applicable" and "relevant and appropriate" in the NCP at Section 300.5. The amended ROD was not changed as a result of this comment."</p> <p>Please see the following response. The amended ROD was not changed as a result of this comment.</p>

TABLE 2: RESPONSES TO COMMENTS FROM THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
1. (con't)	---	<p>Additional comment received December 29, 2008 from Ronald Pilorin: CDPH continues to assert that 17 CCR section 30256 meets the criteria for a potential state chemical-specific ARAR. The Navy's comments seem to imply that 17 CCR section 30256 cannot be an ARAR as it is primarily procedural in nature. However, this regulation is also substantive, at least in part. In particular, subdivision (k) does provide a standard for clean up of radioactive material. The text of 17 CCR 30256(k) is as follows: "(k) Specific licenses shall be terminated by written notice to the licensee when the Department determines that: (1) Radioactive material has been properly disposed; (2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and (3) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use."</p> <p>In addition, while the title of the regulation is "Vacating Installations: Records and Notices," the regulation meets the criteria of "relevant and appropriate." The Department is aware that the regulation does not provide a numerical standard, however, a state regulation need not contain a numerical standard in order to be considered an ARAR. Furthermore, the CDPH has been ordered to use that regulation by a California judge who held that "the standard in California for decommissioning and termination of licenses for radioactive sites is found in 17 CCR section 30256..." (Committee to Bridge the Gap v. Bonta et al, Sacramento County Superior Court, Case No. 01CS01445, "Order Requiring Supplemental Return to Amended Peremptory Writ," August 27, 2002.)</p> <p>In addition, the Navy did not respond at all to the CDPH comment with respect to which federal ARARs are more stringent than the state regulation for IR Sites 7 and 18. Please provide that response.</p>	<p>CDPH asserts that, in particular, subdivision (k) is a potential ARAR because it has substantive portions contained therein; however, the Navy's interpretation of subdivision (k) indicates that the three supporting elements are merely determinations to support termination of specific licenses rather than setting specific cleanup standards. Since these three elements support a determination to terminate a specific license, which is procedural and not substantive, this regulation is not relevant and appropriate to a federal site.</p> <p>Also, the Navy and EPA do not agree that this regulation qualifies as a potential state ARAR because it has not been demonstrated to be more stringent than federal ARARs or federal risk-based cleanup levels. The amended ROD determination is that CCR tit. 17 § 30256 (k) is not an ARAR because it is not substantive and because federal ARAR 10 CFR Section 20.1402 and federal risk-based cleanup levels are more stringent.</p> <p>The amended ROD was not changed as a result of this comment.</p> <p>Please refer to the response to the previous CDPH comments. The amended ROD was not changed as a result of this comment.</p>

TABLE 2: RESPONSES TO COMMENTS FROM THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
2.	---	CDPH is still concerned about the stubborn trenches in Parcel B. According to the draft final ROD, these trenches will be cleaned to levels that will allow for unrestricted use. In order for CDPH to concur on unrestricted release of the affected area, the Navy will need to demonstrate that all contamination has been removed and cleanup goals of the amended Parcel B ROD have been met. The Parcel B Radiological Removal Action Completion Report (RACR) must provide adequate information for supporting unrestricted release. If the Navy is unable to demonstrate that the Parcel B ROD Amendment remedial goals have been met, then further investigation and remedial action shall be necessary.	In the event that the TCRA for radionuclides does not achieve its cleanup goals, cleanup will continue in accordance with the remedial action selected in the amended ROD until the RAOs are achieved. The amended ROD was not changed as a result of this comment.
		Further, CDPH will not be able to recommend concurrence on the Parcel B ROD amendment until the question regarding the source of contamination in the “stubborn” trenches is answered. The advancement of a new site conceptual model will require a reconsideration of site characterization. Additional investigation may be necessary to determine that the extent of contamination is fully understood.	The Navy believes the source of contamination in the “stubborn trenches” is the former storm drains removed from the area and that the current site conceptual model is correct. The Navy’s position is documented in the “Navy Memorandum for the Record, Conceptual Site Model for the Removal of the Sanitary and Storm Sewers at Hunters Point Shipyard, San Francisco, California,” dated December 16, 2008.
SPECIFIC COMMENTS			
1.	12-12	Additional Land Use Restrictions Related to Radionuclides at IR Sites 7 and 18. Please delete the phrase, “solely in the minimum 2 feet of clean fill.” The sentence would then read: “For land-disturbing activities, as defined above, at IR Sites 7 and 18 within the ARIC [area requiring institutional controls] for radionuclides that are above the demarcation layer, the LUC RD report, the Operations and Maintenance Plan, or IR Sites 7 and 18 RMP, if applicable, will list the procedures to be followed to be sure that the demarcation layer and the clean and radiologically screened and cleared soil beneath it are not disturbed or breached.”	Please refer to the response to DTSC general comment 2.

TABLE 2: RESPONSES TO COMMENTS FROM THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
1. (con't)	---	To obtain CDPH approval for the installation of the water lines over the demarcation layer, the work plan may need to include modeling to illustrate that in case of temporary leaks over the demarcation layer, migration of radionuclides to the groundwater will not be an issue of concern. CDPH recommends for the Navy to provide this modeling for the issuance of the license exemption from Radiologic Health Branch (RHB).	<p>The Navy does not intend to install any water lines within the soil cover above the demarcation layer to be constructed at IR Sites 7 and 18. The City and County of San Francisco may include the requested information in the IR Sites 7 and 18 RMP, which would be reviewed and approved by the Base Realignment and Closure Cleanup Team (BCT) and CDPH. Otherwise, after construction of the remedy and subsequent property transfer, the installation of subsurface pipelines would be a "land-disturbing activity" subject to the restrictions described in the amended ROD in Section 12.2.1.5: "...must be conducted in accordance with the 'Covenant(s) to Restrict Use of Property', Quitclaim Deed(s), the Operation and Maintenance Plan(s), LUC RD report, the RMPs, and if required, any other work plan or document approved in accordance with these referenced documents."</p> <p>The amended ROD was not changed as a result of this comment.</p>
2.	12-13	Second paragraph. CDPH requests that the following lines be deleted from Section 12: "If IR Sites 7 and 18 are transferred prior to the construction of the cap/cover, the following actions may be implemented to ensure adequate protection of human health until the final cover/cap remedy is deemed complete by the FFA signatories and CDPH. Access to the general public will be prohibited through the use of fencing and posted signs."	This paragraph was deleted. Please refer to the response to DTSC general comment 2.

TABLE 3: RESPONSES TO COMMENTS FROM THE SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008

The table below contains the responses to comments received from the San Francisco Bay Regional Water Quality Control Board (Water Board) on the “Draft Final Amended Parcel B Record of Decision, Hunters Point Shipyard, San Francisco, California,” dated November 7, 2008. The comments addressed below were received from the Water Board on December 9, 2008. Throughout this table, *italicized* text represents additions to the document and ~~strikeout~~ text indicates locations of deletions. Also throughout this table, references to page, section, table, and figure numbers pertain to the new document unless indicated otherwise.

No.	Page	Comment	Response
Responses to Comments from Water Board			
GENERAL COMMENT			
1.	---	I have reviewed the above-referenced report, dated November 7, 2008, and have no specific comments on the response to Water Board comments, sent September 25, 2008. We do appreciate your agreement in your response to general comment 1 to have the Hunters Point TPH [total petroleum hydrocarbons] program further evaluate these commingled areas of concern to determine if further action is warranted. We look forward to working with the TPH program to identify any remaining areas of concern in Parcel B.	Comment noted.

TABLE 4: RESPONSES TO COMMENTS FROM CITY AND COUNTY OF SAN FRANCISCO ON THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008

The table below contains the responses to comments received from the City and County of San Francisco Health Department on the “Draft Final Amended Parcel B Record of Decision, Hunters Point Shipyard, San Francisco, California,” dated November 7, 2008. The comments addressed below were received from the San Francisco Health Department on December 11, 2008. Throughout this table, *italicized* text represents additions to the document and ~~strikeout~~ text indicates locations of deletions. Also throughout this table, references to page, section, table, and figure numbers pertain to the new document unless indicated otherwise.

No.	Page	Comment	Response
Responses to Comments from City and County of San Francisco			
GENERAL COMMENTS			
1.	---	<p>In response to this City Comment on the draft Amended ROD:</p> <p>“In the Institutional Controls Section, Proposed Activity Restrictions Relating to VOC vapors at Specific Locations within Parcel B, it states that “Initially, the ARIC includes all of Parcel B except Redevelopment Block 4” and Figure 12-1 illustrates this statement with a yellow highlight on the Parcel in every location except Redevelopment Block 4. We think this is a misrepresentation of the current state of knowledge about the ARIC for VOC vapors and unnecessarily restricts the majority of Parcel B.</p> <p>Our request is to remove the yellow highlight from Figure 12-1 and state that the ARIC for VOC vapors covers an area that is not yet defined and will be defined in the future. Our understanding, based on our current knowledge of the site, is that the data support many areas where there will be no requirement for an ARIC for VOC vapors.”</p> <p>The Navy stated:</p> <p>“The ARIC for VOC vapors may be modified as remediation is completed or in response to further sampling and analysis that establishes that areas now in the ARIC do not pose unacceptable potential exposure risk to VOC vapors. The initial ARIC is proposed to include the entire parcel (except Redevelopment Block 4) because existing data for soil gas are insufficient to further reduce the size of the ARIC.”</p>	<p>The amended ROD was not changed as a result of this comment. The Navy agrees that remediation for volatile organic compounds (VOC) will not likely be needed over widespread areas of Parcel B. However, existing data for soil gas are insufficient to further reduce the size of the ARIC for VOC vapors. Additional soil gas data will need to be collected and analyzed to reduce the ARIC. Soil gas samples may not need to be collected on a grid-basis throughout the parcel to provide sufficient data to characterize the entire parcel.</p> <p>Further, the city has submitted this comment, in various forms, numerous times and the Navy position/response has remained and remains the same. The transferee may pursue soil gas ARIC changes by conducting soil gas investigations and establishing soil gas action levels. However, in the interim, the VOC ARIC shall remain in place. It should also be noted that the Navy is currently working on methodology for establishing soil gas actions levels that the transferee could use to shrink the VOC ARIC.</p>

TABLE 4: RESPONSES TO COMMENTS FROM THE CITY AND COUNTY OF SAN FRANCISCO THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
1. (cont'd)	---	<p>As with Redevelopment Block 4, there are many areas of Parcel B where historical data and use history have not indicated a need for further investigations. Your response seems to imply that remediation or sampling will be required in order to remove the ARIC for VOCs from all areas. Based on discussions with the Navy and the regulators, we understand that there are some areas where no remediation or sampling will be required in order to remove the ARIC for VOCs. This should be explained in the document.</p> <p>Alternatively, you could remove the yellow highlight from Figure 12-1 and state that the ARIC for VOC vapors covers an area that is not yet defined and will be defined in the future</p>	
2.	---	<p>Throughout the Amended ROD, the Navy refers to soil gas surveys being done post-remediation. While it is true that you will conduct a soil gas survey at IR-10 post-remediation, the original need for the soil gas surveys in many areas of the parcel was based on detections of VOCs in soil at various locations throughout Parcel B that are not currently scheduled for remediation. The levels of soil gas must be tested at these VOC in soil locations to determine if there are any new areas that will require remediation. Therefore, the soil gas surveys must be performed pre-remediation to identify areas that will require remediation. Please revise the document to describe these pre-remediation soil gas surveys.</p>	<p>The Navy believes that it is unlikely that many, if any, of the areas where VOCs were detected in soil samples will require remediation based on the types of chemicals present, the magnitudes of the chemical concentrations observed, and the significant time that has elapsed since the samples were collected. Furthermore, remedial actions, including groundwater treatment but also earthmoving and construction of soil and asphalt covers, are expected to affect chemical concentrations in soil gas. For these reasons, the Navy believes conducting the soil gas survey after remediation will provide more useful results and that the likelihood of overlooking an area that needs remediation is small.</p> <p>However, after transfer, the transferee may pursue soil gas ARIC changes by conducting soil gas investigations before redevelopment and therefore, with the exception of discussions pertaining to IR-10, the amended ROD was changed to delete discussion of the timing of soil gas surveys..</p>

TABLE 4: RESPONSES TO COMMENTS FROM THE CITY AND COUNTY OF SAN FRANCISCO THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
3.	---	<p>We remain of the belief that it is crucial that chemical specific remedial goals for soil gas be established, presented in the Amended ROD and approved by the regulatory agencies instead of being delayed until after the ROD. The Navy believes that soil gas COCs are expected to change significantly as a result of the remedial actions and therefore collection of soil gas data is not proposed until after the remedial actions. Although concentrations may change as a result of remedial actions, the list of COCs is not likely to “change significantly”. Both the list of PCOCs and their respective Preliminary Remediation Goals (PRGs) could be established in the Amended ROD. At a minimum, the methodology for calculating soil gas remedial goals needs to be determined in the Amended ROD and approved by the regulators.</p>	<p>The Navy has established remediation goals for indoor inhalation of vapors from groundwater and included the following language in the ROD. The Navy believes that the chemicals of concern (COC) will change greatly in that many polycyclic aromatic hydrocarbons (PAH) that were measured in soil and are volatile will not be found in soil gas samples collected from the same areas.</p> <p>Numeric action levels for VOCs in soil gas will not be established in the amended ROD, but rather may be set using COC identification information from soil gas surveys that may be conducted in the future. Soil gas COCs are expected to change significantly as a result of the remedial actions; therefore, collection of soil gas data (and the subsequent establishment of action levels for soil gas) is not proposed until after the remedial actions.</p> <p>The Navy is preparing a draft approach for developing soil gas action levels for vapor intrusion exposure for review by the BCT.</p> <p>The amended ROD statement concerning remediation goals (page 8-2 in Section 8.2) was revised as follows. “Remediation goals for VOCs to address exposure via indoor air inhalation of vapors listed in Table 8-3 may be superseded based on COC identification information from future soil gas surveys that may be conducted <i>in the future</i> following the remedial actions.”</p>
4.	---	<p>We understand that the Navy does not wish to update the Parcel B Amended ROD to reflect the results of current groundwater samples collected at Parcel B. Nevertheless, a notation should be added that the actual extent of remediation and ARICs will be defined during the RD, based on then-current data.</p>	<p>Text indicating that the extent of remediation will be based on current data available during the RD is already included at many locations throughout the amended ROD. For example, refer to Sections 5.5.2, 9.2.3.1, and 12.2.2.1. The amended ROD was not changed as a result of this comment.</p>

TABLE 4: RESPONSES TO COMMENTS FROM THE CITY AND COUNTY OF SAN FRANCISCO THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
5.	---	The City will apprise the Navy when changes to redevelopment blocks are made, particularly those affecting land reuse. Therefore, all figures and tables should have a note indicating that redevelopment blocks may change and/or may not be referenced in future documents. In view of the likelihood for changes in redevelopment blocks and intended reuse to occur in the future, the City remains of the opinion that remedy implementation areas should be based on the nature and extent of contamination rather than the presence or location of redevelopment blocks.	The following note was added to appropriate figures and tables. “Reuse areas based on “Hunters Point Shipyard Redevelopment Plan” (SFRA 1997). Reuse areas and redevelopment blocks may change in the future.”
6.	---	We would like to point out for the record, that once the engineering controls and institutional controls are properly installed and maintained the current design of the proposed remedies will cut off pathways for: (a) contact with soil contaminants and (b) inhalation of indoor VOC vapors and this means that the entire property will be health protective for all types of uses.	Comment noted. The amended ROD was not changed as a result of this comment.
SPECIFIC COMMENTS			
1.	xiii	<p>Page xiii, Alternative S-5 and Page 12-1, Alternative S-5, 1st bullet. The City previously made the following comment: Please remove the sentences: “Screen and separate radioactive anomalies from the excavated soil.” and “Transport radioactive anomalies and contaminated soil off site to an appropriate low-level radioactive waste disposal facility.” The need for screening soil for radioactive anomalies applies to areas with radiological restrictions and is already included in the Alternative R-3 and should not be included as a component to Alternative S-5. The statement of S-5 remedy here and wherever else it is repeated in the document should be:</p> <p>“Excavate soil in select areas where concentrations of chemicals of concern (COC) exceed remediation goals. Transport the excavated contaminated soil and materials off site to an appropriate disposal facility. Backfill excavated areas with clean fill material.”</p> <p>The Navy responded that this text referred to IR-07 and you did not revise the text. The City maintains that this text requires revision because Alternative S-5 applies to non-radiologically restricted areas on the whole parcel. As written, the text erroneously requires radiological screening of subsurface soil throughout Parcel B.</p>	<p>The text in the first bullet on page 12-1 was revised as suggested. The text describing Alternative R-2 on page 12-2 was also revised as follows to address the possibility that excavations to address radionuclides will not be limited to storm drain and sanitary sewer lines.</p> <p>“...Excavate remove radiologically impacted storm drain and sanitary sewer lines <i>and other areas, as necessary</i> throughout Parcel B...”</p>

TABLE 4: RESPONSES TO COMMENTS FROM THE CITY AND COUNTY OF SAN FRANCISCO THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
2.	9-11	Page 9-11, last paragraph. Please revise this paragraph to reflect our most recent conversations that the suction channel should not be transferred to Parcel F. It is more efficient to have that property remain in Parcel B. Please make corresponding changes to other areas of the document where required.	The suction channel will not be transferred to Parcel F and instead will be cleared for unrestricted release as part of the Navy's radiological TCRA. The text was revised to reflect this change in approach.
3.	12-1	Page 12-1, Alternative S-5, fifth bullet. The Amended ROD states that a soil gas survey may be performed following remedial actions and then states that results of the survey would be used "to identify where the initial ARIC for VOCs would be retained and where they would be released." The amended ROD is leaving out the important fact that there are areas where no remedial actions and no soil gas surveys will be performed but the ARIC for VOCs will be released. This will be possible by reviewing the site history and previously collected soil data and concluding that areas of the parcel do not require remedial actions or soil gas surveys in order to be released from the ARIC for VOCs. This concept should be stated in the amended ROD (see next comment for a suggestion).	Please refer to the responses to city general comments 1, 2, and 3.
		<p>Page 12-1, Alternative S-5, fifth bullet (also applies to same text on page 12-4). As written, this bullet is confusing – a reader can interpret as only applying to a soil gas survey conducted in the IR-10 area or as applying to the whole parcel. If it applies to the whole parcel then it is confusing because it states that soil gas surveys will be conducted following remedial actions – however there are areas where no remedial actions will be conducted until you first do a soil gas survey to determine if there are any residual chemicals in the soil that require remedial actions. We suggest writing the soil gas survey bullets as follows:</p> <p>a. Rewrite bullet four to make it clear that there is a soil gas component following the SVE treatment at IR-10: "Install an SVE system at IR-10 to remove VOCs from soil. Conduct a soil gas survey following completion of the remedial action (after the areas have re-equilibrated). The results of the survey would be used to evaluate potential vapor intrusion risks at IR-10, identify if the ARIC for VOCs directly related to IR-10 can be released and evaluate the need for additional remedial action at IR-10".</p>	<p>The text was revised as follows (pages 12-1, 12-4, and xiv in the Declaration section).</p> <ul style="list-style-type: none"> • Apply institutional controls for VOCs across most of Parcel B, as described in Section 12.2.1.5. A soil gas survey may be conducted in the future following the remedial actions described above (after areas have re-equilibrated). The results of the survey would be used for the following purposes: <ul style="list-style-type: none"> ▪ to evaluate potential vapor intrusion risks, ▪ to identify COCs for which risk-based numeric action levels for VOCs in soil gas would be established (based on a cumulative risk of 10^{-6}), ▪ to identify where the initial areas requiring institutional controls (ARIC) for VOCs would be retained and where they would be released, and ▪ to evaluate the need for additional remedial action in order to remove ARICs.

TABLE 4: RESPONSES TO COMMENTS FROM THE CITY AND COUNTY OF SAN FRANCISCO THE DRAFT FINAL AMENDED PARCEL B RECORD OF DECISION, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA, NOVEMBER 7, 2008 (CONTINUED)

No.	Page	Comment	Response
4.	12-1 12-4	<p>b. Rewrite bullet five as follows: Apply institutional controls for VOCs across most of Parcel B, as described in Section 12.2.1.5. Then in consultation with regulatory agencies conduct the following steps:</p> <ul style="list-style-type: none"> Review existing soil data and site histories to determine areas where the ARIC for VOCs can be released from the parcel (without the need for soil gas surveys) Conduct a soil gas survey in focused areas where there are still concerns about residual chemicals in soil or where there are VOCs in groundwater Use results of the soil gas survey to identify COCs for which risk-based numeric action levels for VOCs in soil gas would be established (based on a cumulative risk of 10^{-6}) Once risk-based numeric action levels are established, compare the results of the soil gas survey to the action levels to evaluate the need for remedial action or the release or retention of the ARIC for VOCs 	<p>The text was revised as follows (pages 12-1, 12-4, and xiv in the Declaration section).</p> <ul style="list-style-type: none"> Apply institutional controls for VOCs across most of Parcel B, as described in Section 12.2.1.5. A soil gas survey may be conducted in the future following the remedial actions described above (after areas have re-equilibrated). The results of the survey would be used for the following purposes: <ul style="list-style-type: none"> to evaluate potential vapor intrusion risks, to identify COCs for which risk-based numeric action levels for VOCs in soil gas would be established (based on a cumulative risk of 10^{-6}), to identify where the initial areas requiring institutional controls (ARIC) for VOCs would be retained and where they would be released, and to evaluate the need for additional remedial action in order to remove ARICs.
5.	12-9	Page 12-9, first sentence of last paragraph. Please remove “and the California Department of Public Health (CDPH).” This first sentence applies to all areas of Parcel B, excluding IR Sites 7 and 18, so CDPH will not be an approving entity.	The text was revised as suggested.
6.	12-11	Page 12-11, Activity Restrictions related to VOC vapors..., last paragraph. Please move sentence three after sentence four.	The text was not revised as suggested because the third sentence refers to the second sentence and should follow it in the paragraph.